

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DAVID MAZZA,)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO. 04-30020-MAP
)	
AETNA CASUALTY AND LIFE)	
INSURANCE COMPANY, ET AL,)	
Defendants)	

MEMORANDUM AND ORDER REGARDING
DEFENDANT AETNA'S MOTION TO DISMISS AND
MOTION TO STRIKE JURY DEMAND
(Docket Nos. 5 & 7)

May 5, 2004

PONSOR, U.S.D.J.

On April 13, 2004, the defendant Aetna Casualty and Life Insurance Company ("Aetna") filed a motion to dismiss on the grounds, first, that Aetna is no longer a claims administrator for the benefit plan plaintiff's complaint evokes and, second, that the claim for unfair trade practices is preempted. Plaintiff has offered no opposition to the motion on either ground.

The motion is hereby ALLOWED. The undisputed submissions of the defendant Aetna make it clear that, indeed, this defendant is no longer the administrator of the plan that allegedly covered the plaintiff. In addition, well-established law preempts any claim for unfair trade practices. In addition, the motion is hereby ALLOWED based upon the plaintiff's failure to comply with Rule 7.1(B)(2) of the Local Rules for the United States District Court for the District of Massachusetts, which requires that opposition to a motion shall be filed within fourteen days.

Based on the foregoing, the defendant's Motion to Strike Jury Demand is hereby DENIED, as moot.

The clerk will set the matter for a pretrial scheduling conference with the plaintiff and the remaining defendants.

It is So Ordered.

/s/ Michael A. Ponsor

MICHAEL A. PONSOR

U. S. District Judge